

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 32/Lab./AIL/J/2015, dated 13th April 2015)

NOTIFICATION

Whereas, the award in I.D.(L)No. 39/2014, dated 12-2-2015 of the Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. Checkmate Security Service, Adambakkam, Chennai and its workman Thiru K. Murugan over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said award shall be published in the official gazette, Puducherry.

(By order)

GIDDI BALARAM,
Under Secretary to Government (Labour).

BEFORE THE LABOUR COURT AT PONDICHERY

*Present : Thiru G. DHANARAJ, B.SC., B.L.,
Presiding Officer, Labour Court.*

Thursday, the 12th day of February 2015

I.D. (L) No. 39/2014

K. Murugan . . . Petitioner

Vs.

The Managing Director,
M/s. Checkmate Security Service . . . Respondent

This industrial dispute coming on 6-2-2015 for final hearing before me in the presence of Thiru A. Karunamoorthy, Counsel for the petitioner, respondent called absent, set *ex parte*, upon perusing the case records, after having stood over for consideration till this day, this court passed the following:

AWARD

This industrial dispute has been referred as per the G.O. Rt. No. 94/AIL/Lab./J/2014, dated 5-6-2014 for adjudicating the following:-

(1) Whether the dispute raised by the petitioner Thiru K. Murugan against the management of M/s. Checkmate Security Service, Adambakkam, Chennai over non-employment is justified? If justified, what relief he is entitled to?

(2) To compute the relief, if any awarded in terms of money, if it can be so computed?

2. The facts giving rise to this industrial dispute as stood exposted from the claim petition runs thus:-

He is an employee of the respondent company was working as security from 22-5-2006 and he was discharged to extreme satisfaction of the respondent management.

The petitioner was working under the respondent management from 2-5-2006 to 1-5-2013 for the past 7 years without any blemish/remarks at all by the respondent management and during the said course of the employment the petitioner has not avail any unauthorised leave from his employment of the respondent management. For the past 7 years the petitioner had served hardly to the respondent management.

Till date there is no remarks at all as against the petitioner either by the management or by any colleague of the petitioner and there is good name in the said respondent management, but, the petitioner as well as other employees had been given very lowest salary of ₹ 5,952 per month by the respondent management.

Because of unlawful employee activities of the respondent management, to get remedy before the respondent management, such as late salary payments, not providing salary slips and details of various dedications in salary, not providing weekly holidays to the security staffs the petitioner made several representations through phone and in written and duly represented in the feedback on security services from various companies for which he went for security duties to the respondent management. The respondent management got vengeance as against the petitioner and tried to defeat and stop such legal activities and affairs of the petitioner as a result, the respondent management had stopped the petitioner from his service unlawfully without providing any lawful notice.

On 2-5-2013 due to his illness took leave for one day after due intimation to the respondent management by mobile phone and duly making entry in the attendance register on 1-5-2013 itself. After the said leave on 2-5-2013 the petitioner came back for his duty on 3-5-2013 and duly signed in the attendance register also but the respondent management appointed one Babu in his place and send back the petitioner without providing the duty. The petitioner

has approached the respondent management for his regular employment but the same was illegally refused by the respondent management. The refusal of employment is contrary to the Labour laws and the principle of natural justice.

The respondent management has not furnished any show cause notice or to conduct any enquiry against the petitioner. In fact the act committed by the respondent management is nothing but illegal, and against the Labour laws and principle of natural justice. So far the respondent management has not turned neither reply nor employment and always acting as against this innocent employee petitioner.

Regarding the illegal act of the respondent management the petitioner approached before the conciliation on 25-7-2013 and after it's intervenes/ approaches to the respondent management, the respondent management has not adhere anything and acting against this petitioner continuously and also the matter was not disposed within the period of 45 days, hence this petition for adjudication.

3. No counter was filed on behalf of the respondent.

4. On the side of the petitioner, PW.1 was examined and Ex.P1 to Ex.P14 were marked.

5. *The point for consideration is:*

Whether the industrial dispute can be allowed or not?

6. *On this point:*

Heard. It was submitted by the counsel for the petitioner that the petitioner was the employee of the respondent security service as security guard. The petitioner was joining the respondent security service, namely, M/s. Checkmate Security Service on 22-5-2006. The petitioner was working as a security guard with the respondent security service for about 7 years without any blemish records. The petitioner was paid for a sum of ₹ 5,952 per month by the respondent management. The respondent management was doing unlawful activities against the employee and were not providing the weekly off. The petitioner was stopped from attending the duty by the respondent management unlawfully without any notice. The petitioner was taking leave for one day on 2-5-2013, due to illness. The petitioner had informed the respondent management regarding the leave taken by the petitioner through mobile phone and also the said fact was entered into attendance register on 1-5-2013 itself. The petitioner was attending duty on 3-5-2013 but the respondent management had appointed one Babu, instead of

petitioner and the petitioner was not provided with any duty. The petitioner was not provided any duty illegally by the respondent management and against the natural justice. The matter was conciliated by the concerned Conciliation Officer, the Conciliation was failed. Hence this dispute.

7. On behalf of the respondent, in spite of the repeated adjournments, there was no representation and the respondent was set *ex parte*.

8. After hearing the petitioner's counsel, records were perused. On perusal it comes to light that on behalf of the petitioner a proof affidavit was filed by the petitioner himself and as much as 14 documents were produced which was marked as Ex.P1 to P14. Accordingly a perusal of the Ex.P3 which would reveal the fact that the Ex.P3 was a attendance register photocopy, for the concerned guards, caretakers and supervisors including the petitioner's name maintained by one TATA Motors Finance Limited, Puducherry. A perusal of the Ex.P4 reveals the fact that it was also a photocopy of the attendance sheets for the month of March 2013 maintained by TATA Motors Finance Limited. The documents filed by the petitioner, namely, Ex.P5 to P8 were the documents regarding the salary particulars of the petitioner, namely, K. Murugan issued by the Checkmate Services Private Limited, attached with the TATA Motors Finance Limited, for the period as mentioned thereon. A perusal of the Ex.P9 would reveal the fact that a representation was given by the petitioner to the respondent management and the matter was conciliated by the Conciliation Officer, also established by the petitioner as exhibited P10, P11, P12 and P13.

9. A perusal of the Ex.P12 which was a report filed by the Conciliation Officer to the Secretary to the Government, Labour Department, Puducherry, wherein it has been mentioned as follows:-

"During the course of conciliation the management has stated that they have not denied employment and PF contributions have been paid regularly and also assured before the conciliation machinery that the issue would be settled amicably".

A cursory reading of the abovesaid averments mentioned in the Ex.P12 would reveal the fact that the respondent management themselves admitted before the Conciliation Officer that they have not denied employment to the petitioner and the dispute would be settled amicably was the averments mentioned in the Ex.P12 which was prepared by the Conciliation Officer. And it was stated by the concerned Conciliation Officer himself that the respondent management was not denying the employment to the petitioner as mentioned thereon.

10. It has been held in a case as reported in Government of National Capital Territory Vs. Mrs. Kamlesh, 1996 (1) LLJ 469 (Delhi) *vide* Industrial Disputes Act by Justice D.D. Seth, 9th edition, Pg.1796 as follows:-

“Industrial Disputes Act, 1947, section 25-F illegal termination of workman such workmen entitled to full back wages being within scope of reference”.

In the light of the above said ruling, a perusal of the records on hand, the court decided on a considered view, that the abovesaid proposition of the law laid down by the Hon'ble High Court is also squarely applicable to the given case, because in this case also the respondent management did not assign any valid reason before this court as to non-employ the petitioner and also it was admitted by the respondent management before the concerned Conciliation Officer that they were not denying the employment to the petitioner and the issue would be settled amicably. In spite of the said fact *i.e.* in spite of the said admission, before the concerned Conciliation Officer, the respondent management did not settle the matter amicably and did not come forward before this court as to represent its case and the respondent management was remained *ex parte*. Hence the court decided on a considered view that the case of the petitioner was established and the petitioner is entitled for reinstatement with the respondent management organisation and is entitled for the salary as drawn by him on the date of 1-5-2013 which was the last date attended by the petitioner to the employment and also the petitioner is entitled for the back wages from the date of 3-5-2013 till the date of reinstatement. The arrear amount should be paid to the petitioner, namely, K. Murugan by the respondent management within three months from the date of this order, failing which the petitioner would be entitled for six per cent of interest for the said arrear amount. Accordingly, it is ordered.

11. In the result, it is ordered that the petitioner is entitled for the reinstatement with the respondent management as security guard and also entitled for the salary from the date of 3-5-2013 to the date of reinstatement and the arrear amount should be paid to the petitioner within three months from the date of this order, failing which the petitioner is entitled for six per cent interest thereon. Accordingly, it is ordered.

Typed to my dictation, corrected and pronounced by me in the open court on this the 12th day of February 2015.

G. DHANARAJ,
Presiding Officer,
Labour Court, Pondicherry.

List of petitioner's witnesses:

PW.1 — 6-2-2015 — K. Murugan

List of petitioner's exhibits:

- Ex.P1 — Copy of the Employee Identity Card in petitioner and respondent, dated 15-2-2007.
- Ex.P2 — Copy of the E.S.I. Corporation Identity Card in petitioner and E.S.I., dated 8-2-2007.
- Ex.P3 — Copy of the attendance register in petitioner and respondent.
- Ex.P4 — Copy of the feedback and attendance sheets given by Tata Motors in petitioner and Tata Motors Finance Ltd.
- Ex.P5 — Copy of the salary sheet in petitioner and ICICI, dated November 2008.
- Ex.P6 — Copy of the salary sheet in petitioner and Essar Steels Ltd., dated December 2010.
- Ex.P7 — Copy of the salary sheet in petitioner and Tata Motors Finance Ltd., dated September 2012.
- Ex.P8 — Copy of the salary slip in petitioner and respondent, dated November 2012.
- Ex.P9 — Copy of the representation in petitioner and respondent, dated 3-5-2013.
- Ex.P10 — Copy of the representation in petitioner and Labour Officer (Conciliation), dated 16-5-2013.
- Ex.P11 — Copy of the notice of enquiry in Labour Officer (Conciliation) and respondent, dated 4-7-2013.
- Ex.P12 — Copy of the report on failure of conciliation in petitioner and Labour Officer (Conciliation), dated 14-5-2014.
- Ex.P13 — Copy of the order referred to Labour Court for adjudication in petitioner and Labour Officer (Conciliation), dated 5-6-2014.
- Ex.P14 — Copy of the notice in petitioner and Labour Court, dated 1-7-2014.

G. DHANARAJ,
Presiding Officer,
Labour Court, Pondicherry.